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5

6 **Attorneys for Defendants**  
CHINA BOWL, INC. erroneously sued  
7 herein as "CHINA BOWL (Owner QUAN  
HE HAN)" and QUAN HE HAN  
8

9  
10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION

13 SHU SEN LU,

14 Plaintiff,

15 v.

16 CHINA BOWL (Owner, QUAN HE  
HAN),

17 Defendants.  
18

Case No. C 07 4951 EDL

**DEFENDANTS CHINA BOWL, INC. AND  
QUAN HE HAN'S REQUEST FOR  
JUDICIAL NOTICE IN SUPPORT OF  
MOTION TO DISMISS**  
(Fed. R. Civ. P. 12(b)(2)(3) and (6).)

Date: January 30, 2008

Time: 2:00 p.m.

Ctrm: E

The Honorable Elizabeth D. Laporte

Complaint Filed: September 25, 2007

19  
20 Pursuant to Federal Rules of Evidence, Rule 201(d), Defendants CHINA BOWL,  
21 INC. and QUAN HE HAN hereby request that the Court take judicial notice of the  
22 Employment Discrimination Complaint filed in the above-entitled court on September  
23 25, 2007. A true and correct file-endorsed copy of the Employment Discrimination  
24 Complaint is attached hereto as Exhibit "A" and by this reference, fully incorporated  
25 herein.  
26

27 ///

28 ///

1 Dated: December 6, 2007

Respectfully submitted,

2 AARON & WILSON, LLP

3  
4 By

  
ROBERT S. AARON

**Attorneys for Defendants**

CHINA BOWL, INC. erroneously sued  
herein as "CHINA BOWL (Owner  
QUAN HE HAN)" and QUAN HE HAN

**EXHIBIT A**

FILED  
07 SEP 25 PM 12:58  
RICHARD W. WILKING  
CLERK U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

EDL

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

EDL

Shu Sen Lu Plaintiff,

vs.

China Bowl  
(Owner: Quan He Han) Defendant(s).

C 07 4951

CASE NO.

EMPLOYMENT DISCRIMINATION  
COMPLAINT

1. Plaintiff resides at:

Address 180 peabody st

City, State & Zip Code San Francisco CA, 94134

Phone (406) 546-9335

2. Defendant is located at:

Address 3445 American Way

City, State & Zip Code Missoula, MT. 59808

3. This action is brought pursuant to Title VII of the Civil Rights Act of 1964 for employment discrimination. Jurisdiction is conferred on this Court by 42 U.S.C. Section 2000e-5.

Equitable and other relief is sought under 42 U.S.C. Section 2000e-5(g).

4. The acts complained of in this suit concern:

a. N/A Failure to employ me.

b. X Termination of my employment.

c. N/A Failure to promote me.

d. X Other acts as specified below.

Retaliation, Age, The same as 6.

5. Defendant's conduct is discriminatory with respect to the following:

a. N/A My race or color.

b. N/A My religion.

c. N/A My sex.

d. N/A My national origin.

e. X Other as specified below.

Retaliation, Age

6. The basic facts surrounding my claim of discrimination are:

I began working for Respondent in October 2001, my last job title was Fry cook. From 2002 on until my termination, the relative of owner constantly harasses and threatens me. I was beaten up several times and subjected to disparate terms and conditions. Respondent's owner (Quan He Han) and management (Quan He Han wife the Ning Xi Jiang) knew about my abuse but took no actions to help me. And together bully me. At least owner's younger brother (Quan Wei Han) should kill me with the pistol. (Quan Wei Han wife the Man Li Kang) also regularly made ageist remarks to me, abuse me "a piece of shit old bastard" and other names. Ning Xi Jiang classmate the Ha Li three times hit me. I contacted the police and Montana commission on Human Right to help me in 2005 and 2006. (owner Quan He Han) purposely make up the perjury cheat the government. The defendant retaliated me and was terminated on 09/30/2006.

China bowl violates Law, trample on the human right, my spirit, body, reputation, and personality receive the serious injury, suffer from the illness difficult to cure.

I believe I have been discriminated against because of my age 57, in violation of the Age Discrimination Act of 1967 as amended. I also believe I was retaliated against of participating in protected activity.

7. The alleged discrimination occurred on or about July 2002 - September, 2006

(DATE)

8. I filed charges with the Federal Equal Employment Opportunity Commission (or the California Department of Fair Employment and Housing) regarding defendant's alleged

1 discriminatory conduct on or about April 23, 2007.

2 (DATE)

3 9. The Equal Employment Opportunity Commission issued a Notice-of-Right-to-Sue letter

4 (copy attached), which was received by me on or about July 17, 2007.

5 (DATE)

6 10. Plaintiff hereby demands a jury for all claims for which a jury is permitted:

7 Yes X No \_\_\_\_\_

8 11. WHEREFORE, plaintiff prays that the Court grant such relief as may be appropriate,

9 including injunctive orders, damages, costs, and attorney fees.

10

11 DATED: 09/16/2007 ShuSen Lu

12 SIGNATURE OF PLAINTIFF

13

14 (PLEASE NOTE: NOTARIZATION SHUSEN LU

15 IS NOT REQUIRED.)

PLAINTIFF'S NAME

16

(Printed or Typed)

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EEOC Form 181-B (3/99)

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Shusen Lu  
858 42nd Ave.  
San Francisco, CA 94121

From: San Francisco District Office  
350 The Embarcadero  
Suite 500  
San Francisco, CA 94105



On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR § 1601.7(a))

Charge No.	EEOC Representative	Telephone No.
550-2007-01588	Blake C. Wu, Investigator	(415) 625-5602

(See also the additional information enclosed with this form.)

## NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964 and/or the Americans with Disabilities Act (ADA): This is your Notice of Right to Sue, issued under Title VII and/or the ADA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII or the ADA must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)



More than 180 days have passed since the filing of this charge.



Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of the charge.



The EEOC is terminating its processing of this charge.



The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:



The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.



The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of your charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

  
H. Joan Ehrlich,  
District Director

7/17/07  
(Date Mailed)

Enclosure(s)

cc: Director/Manager of Human Resources  
CHINA BOWL  
3445 American Way  
Missoula, MT 59808

**AFFIDAVIT OF SERVICE**

STATE OF CALIFORNIA, CITY AND COUNTY OF SAN FRANCISCO

I, Ryan J. Sullivan, declare:

I am a citizen of the United States, over 18 years of age and not a party to the within action. I am self-employed in the City and County of San Francisco; my business address is 150 Post Street, Suite 400, San Francisco, California, 94108.

On December 6, 2007, I served the attached and/or enclosed:

**DEFENDANT CHINA BOWL, INC. AND QUAN HE HAN'S REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF MOTION TO DISMISS**

on all parties in this action, at the following address(es):

Shusen Lu  
180 Peabody Street  
San Francisco, CA 94134  
Plaintiff In Pro Per

Service was accomplished by causing either an original or a true copy of the above-referenced document(s) to be distributed as follows:

☒ BY MAIL: I caused such document(s) to be placed in a sealed envelope, addressed as indicated above, with prepaid first-class postage thereon, and then placed the envelope(s) for collection and mailing, in accordance with the firm's ordinary business practice. I am readily familiar with the firm's ordinary business practice for collection and processing of correspondence for mailing with the United States Postal Service. Under that practice correspondence for mailing is deposited with United States Postal Service on the date indicated for service, with prepaid first-class postage thereon.

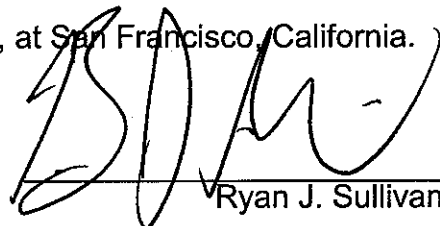
☐ BY HAND DELIVERY: I caused such documents to be hand delivered to the addresses indicated above.

☐ VIA FACSIMILE: I caused such documents to be transmitted via facsimile to the parties indicated above, at their respective facsimile numbers.

☐ VIA EXPRESS CARRIER: I caused such documents to be collected by an agent for the United States Postal Service, United Parcel Service, Federal Express or other overnight carrier, to be delivered by way of overnight mail to the addresses indicated above.

I declare under penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

Executed on December 6, 2007, at San Francisco, California.



Ryan J. Sullivan